

REMARKS

The sole issue remaining in this case is whether the Declaration filed by the inventors, Drs. Xiang and Reisfeld is effective in removing Xiang, et al., as a reference in this case. Applicants submit that, under the authority of *In re Katz*, 215 U.S.P.Q. 14 (CCPA 1982), the Declaration filed on February 18, 2004 is indeed sufficient to remove Xiang et al., as a reference.

One's own invention may not be prior art against oneself, absent a statutory time bar. *In re Iacius*, 161 U.S.P.Q. 294, 302 (CCPA 1969). Here, Xiang, et al., *J. Immunol.* **167** (8): 45 GO-5 (October 15, 2001) clearly is not a statutory time bar.

The Examiner's position that Paragraph 8 of the Declaration "... is not evidence to support that the other authors [who] appeared in the manuscript as well as the publication do (sic!) Not contribute [to] the work," is not well taken. The further Declaration under Rule 132 submitted herewith amply explains why the other individuals were not involved in the inventive process. Here, as in *In re Katz*, applicant's explanation is consistent not only with content of the published scientific article, but also with the nature of the scientific publication.

Early passing of this application to issue is solicited.

Respectfully submitted,

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